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3 Reno, Nevada 89509  
4 Nevada Bar Number 003331  
5 (775) 786-1695  
6 email michaellehners@yahoo.com  
7 Attorney for Chapter Seven Trustee

8 UNITED STATES BANKRUPTCY COURT  
9 DISTRICT OF NEVADA

10 oOo

11 IN RE

12 CHRISTOPHER J. SIEBEN and  
13 TONYA M. SIEBEN,

14 Debtor(s).  
15 \_\_\_\_\_/

BK-N- 09-53991  
CHAPTER 7

Hearing Date: 9/26/12  
and Time: 10:00 a.m.

Mtn No. \_\_\_\_\_

Est Time: 5 Minutes

MOTION TO APPROVE COMPROMISE  
OF CLAIM AGAINST DEBTORS

16 COMES NOW Chapter Seven Trustee, Donald Gieseke, by and  
17 through undersigned counsel and files the following Motion to Approve a  
18 Compromise of the Estate's Claim against the Debtors. This motion is  
19 made and based upon the pleadings on file herein and the Memorandum  
20 of Points and Authorities attached hereto.

21 MEMORANDUM OF POINTS AND AUTHORITIES

22 The Debtors filed the instant bankruptcy on November 9, 2009.  
23 Christopher Sieben was the beneficiary of a generation skipping trust set  
24 up by Mary Hansen. There were 12 beneficiaries of this trust, including  
25 Mr. Sieben. Wells Fargo is the Trustee. The Trust res consists of two  
26 commercial properties in Stateline, Nevada. The trust provided that each  
27 beneficiary shall receive his or her share upon reaching the age of 25.  
28 Wells Fargo has quitclaimed proportional interests these commercial

1 properties to Mr. Sieben. His proportional interest is one twelfth or 8.3%.  
2 The property was conveyed to him on March 24, 2003.

3 These properties generate rents. Socrates Kostas is the Wells Fargo  
4 assistant vice president who administers the trust. The Trustee served  
5 Mr. Kostas with a subpoena to find out details with respect to this asset.  
6 In response to the Subpoena, Mr. Kostas disclosed that Mr. Sieben's share  
7 of rental income from the trust is \$479.92 plus \$239.99 each month.

8 On June 20, 2012 the Trustee filed a motion to compel turnover of  
9 the fractional interests and to compel an accounting of post petition  
10 rents received (Docket No. 52). The motion was scheduled to be heard on  
11 September 26, 2012. On September 25, 2012 the Debtors filed a motion  
12 to convert their case to Chapter Thirteen (Docket No. 62). At the  
13 September 26, 2012 hearing, the Court continued the motion to compel  
14 to the time when the motion to convert was scheduled to be heard -  
15 November 13, 2012 (Docket No. 66).

16 The parties have since reached a settlement of the issues regarding  
17 this property interest. The Debtors have agreed to pay the Estate  
18 \$1,000.00 per month for 36 months. This obligation is secured with an  
19 absolute assignment of the Debtors' rights with respect to the rents and  
20 sale proceeds generated by Christopher Sieben's one twelfth interest in  
21 the Stateline property. A copy of the settlement agreement has been  
22 attached hereto as Exhibit "1". The Debtors have also executed an  
23 absolute assignment of their interest in the rents pursuant to the  
24 settlement agreement.

25 Motions to compromise claims of the estate are brought under Fed.  
26 R. Bank. Pro 9019. In determining the reasonableness of a compromise,  
27  
28

1 courts examine the factors which were set forth in In re A & C  
2 Properties, 784 F.2d 1377, 1382 (C.A.9 1986).

3  
4 In determining the fairness, reasonableness and adequacy of  
5 a proposed settlement agreement, the court must consider:

6 (a) The probability of success in the litigation; (b) the  
7 difficulties, if any, to be encountered in the matter of  
8 collection; (c) the complexity of the litigation involved, and  
9 the expense, inconvenience and delay necessarily attending  
10 it; (d) the paramount interest of the creditors and a proper  
11 deference to their reasonable views in the premises.

12 In the case at bar, the settlement is fair. First, the rents are not  
13 guaranteed. It requires a stable tenant. Mr. Sieben's counsel has  
14 represented his client does not always receive rents. Second, the estate  
15 asset is a fractional interest shared with many others. The large number  
16 of co-owners makes the probability of a §363(h) motion being granted  
17 unlikely. The fractional interests by themselves are not an attractive  
18 asset either. In light of the foregoing, the Trustee respectfully requests  
19 that the attached settlement agreement be approved.

20  
21 Dated: This 19 day of October, 2012

22 By: 

23 Michael Lehnert, Esq.  
24 429 Marsh Ave.  
25 Reno, Nevada 89509  
26 Nevada Bar Number 003331  
27  
28

# Exhibit 1

# Exhibit 1

## Settlement Agreement

COME NOW Debtors, Christopher J. Sieben and Tonya M. Sieben, by and through their attorney, John S. Bartlett, Esq. and Chapter Seven Trustee, Donald Gieseke, by and through his attorney, Michael Lehnert, Esq. and stipulate as follows:

The Debtors filed the instant bankruptcy on November 9, 2009. Christopher Sieben was the beneficiary of a generation skipping trust set up by Mary Hansen. There were 12 beneficiaries of this trust, including Mr. Sieben. The trust appointed Wells Fargo as the Trustee. The trust property consists of two commercial properties in Stateline, Nevada. This property is rented, and Wells Fargo administers the rents. Mr. Sieben's share of rental income from the trust is approximately \$719.91 each month.

The trust provides that when each beneficiary turns 25, his or her proportional interest in the Stateline property shall be transferred to the beneficiary. As a result, Mr. Sieben holds a one twelfth interest in the property.

On June 20, 2012 the Trustee filed a motion to compel turnover of this interest and to compel an accounting of the post petition rents which were received. The Debtors opposed this motion, and the matter came for hearing before the Bankruptcy Court on September 26, 2012. On September 25, 2012 the Debtors filed a motion to convert their bankruptcy to one under Chapter Thirteen. This motion to convert was filed after entry of the Debtors' discharge.

At the hearing, the Court granted the Trustee's request for an accounting. It also set a briefing schedule to address the pending motion

1 to convert. After the hearing, the parties reached a settlement of this  
2 matter.

3 The terms of the settlement agreement between the parties are as  
4 follows:

5 1. The Debtors agree to pay the sum of \$1,000.00 per month to  
6 the Chapter Seven Trustee. The first of these payments is due on October  
7 15, 2012 with a like payment coming due on the 15th of each  
8 subsequent month. Should the 15th fall on a weekend or Holiday, then  
9 the payment shall be due the next business day.

10 2. The Debtors shall execute an absolute assignment of their  
11 rights with respect to the rents and sale proceeds generated by  
12 Christopher Sieben's one twelfth interest in the Stateline property. This  
13 assignment shall be held by the Chapter Seven Trustee. Upon payment  
14 of the amounts due under this stipulation, the assignment shall be  
15 returned to the Debtors. In the event of a default under this agreement,  
16 the Trustee shall use the assignment to collect the Debtors' share of rents  
17 and/or sale proceeds to pay the balance due under this agreement plus a  
18 reasonable attorney fee in the event of a default. The service of the  
19 assignment upon Wells Fargo shall obligate it to pay the Trustee rents  
20 and proceeds from this property until the unpaid balance under this  
21 stipulation is satisfied. The service of said notice of assignment shall  
22 terminate the Debtors' right to release Wells Fargo of its obligations until  
23 these sums are paid. Wood v. Chicago Title Agency of Las Vegas, Inc.,  
24 847 P.2d 738, 109 Nev. 70, (Nev. 1993).

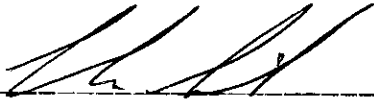
25 3. In the event that the Debtors default with respect to any of  
26 the terms herein, the Trustee shall give the Debtors notice of the default  
27 in writing by regular mail addressed to Christopher J. Sieben and Tonya  
28

1 M. Sieben 372 Sunchase Court, Carson City, Nevada 89701 with a copy  
 2 sent by regular mail to Debtors' counsel, John Bartlett, Esq., 1201  
 3 Johnson Street, Suite 130, Carson City, Nevada 89706-6000. In the event  
 4 that the Debtors fail to cure said default within 15 days from the date  
 5 such notice was set out, the Trustee shall be entitled to collect all sums  
 6 owing to the Debtors based upon the rental or sale of the Stateline  
 7 property.

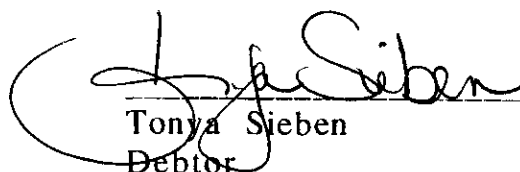
8 4. It is further understood and agreed that this Settlement  
 9 Agreement is executed as a compromise of disputed claims and that the  
 10 consideration furnished pursuant to this agreement is not to be  
 11 construed as an admission of liability on the part of either party,  
 12 including their principals, agents, servants, successors in interest and/or  
 13 employees, such liability being expressly denied.

14 5. In the event that there is a breach of this settlement  
 15 agreement, the prevailing party shall be entitled to an award of  
 16 reasonable attorney fees and costs.

17 Dated: 10-15-2012  
 18 By

19   
 20 \_\_\_\_\_  
 21 Christopher Sieben  
 22 Debtor

Dated: 10/15/2012  
 By

23   
 24 \_\_\_\_\_  
 25 Tonya Sieben  
 26 Debtor

27 Dated: \_\_\_\_\_  
 28 By

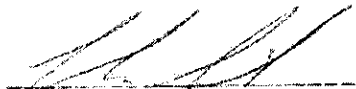
\_\_\_\_\_  
 Donald Gieseke  
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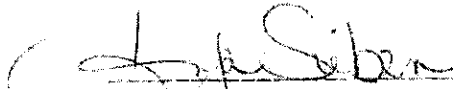
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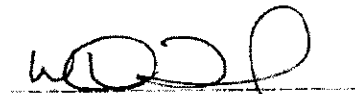
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 18 By

19   
 20 \_\_\_\_\_  
 21 Christopher Sieben  
 22 Debtor

Dated: 10/15/2012  
 By

23   
 24 \_\_\_\_\_  
 25 Tonya Sieben  
 26 Debtor

27 Dated: 10/19/2012  
 28 By

29   
 \_\_\_\_\_  
 Donald Gieseke  
 Trustee